

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ARTHUR T. GRIFFIN, JR.,

Plaintiff,

Case No. 03-75079

v.

Honorable Nancy G. Edmunds

DETROIT PUBLIC SCHOOLS,

Defendant.

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**ORDER ACCEPTING IN PART AND REJECTING IN PART MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION [35], AND DISMISSING PLAINTIFF'S
COMPLAINT**

This matter came before the Court on a Report and Recommendation ("R&R") by Magistrate Judge Wallace Capel, Jr. [35]. The Magistrate recommended dismissing Plaintiff's complaint on two grounds. First, he held that the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1400 *et seq.*, upon which Plaintiff's claim rests, does not grant a parent the right to represent her child in federal court. R&R at 5 (citing *Cavanaugh ex rel. Cavanaugh v. Cardinal Local School Dist.*, 409 F.3d 753, 756 (6th Cir. 2005)). Second, he held that the IDEA does not permit a parent to represent himself pro se. *Id.* (citing *Cavanaugh*, 409 F.3d at 757; *Winkelman v. Parma City School Dist.*, 2005 WL 2293484 (6th Cir. 2005)).

The Magistrate Judge correctly stated these two propositions of law. As to the first, however, Plaintiff correctly points out that his disabled son is not a party to this action, and

that he is suing on his own behalf. Therefore, the first of the Magistrate Judge's reasons does not apply to this case.

But this only reinforces the Magistrate Judge's second reason, that the IDEA does not grant Plaintiff a substantive right in this case. Plaintiff has no cause of action.

Being fully advised in the premises, having read the pleadings, and for the reasons set forth above, the Court hereby DISMISSES Plaintiff's complaint.

SO ORDERED.

s/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: December 9, 2005

I hereby certify that a copy of the foregoing document was served upon counsel of record on December 9, 2005, by electronic and/or ordinary mail.

s/Carol A. Hemeyer
Case Manager